

\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ARB.P. 769/2017

ZEECO INDIA PRIVATE LIMITED Petitioner
Through Mr.Sandeep Sethi, Sr. Adv. with
Ms.Ruchika Sidhwani and Mr.Anish
Ghoshal, Advs.

versus

FERNAS CONSTRUCTION INDIA PRIVATE LIMITED
..... Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **20.12.2017**

This is a petition under Section 11 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Act') seeking appointment of a Sole Arbitrator for adjudication of the disputes that have arisen between the parties in relation to the General Terms and Conditions of Purchase (Indigenous) Project-Integrated Offsite & Utilities Package For Dahej Petrochemical Complex at Dahej, Gujarat (hereinafter referred to as the 'Agreement').

The agreement contains arbitration agreement in the form of Clause 33 which is reproduced herein below:

"33.0 ARBITRATION

33.01 In the event of any dispute or difference of opinion between the parties arising out of or in connection with the PURCHASE ORDER or with regard to performance of any obligation hereunder by either Party, the Parties hereto shall

use their best efforts to settle such disputes or differences of opinion amicably by mutual negotiation. Should the agreement not be reached, such dispute shall be referred to the Sole Arbitrator who shall be appointed with mutual consent of the parties. The arbitration shall be governed in accordance with the provisions of Arbitration and conciliation Act, 1996 or any applicable law on arbitration that may be in force then, and any amendments made thereto. The decision of such arbitration shall be final and binding on both Parties. Venue of such arbitration shall be at New Delhi only. The Language of the arbitration proceeding shall be in English.”

The petitioner invoked the arbitration agreement vide its notice dated 19.09.2017 and having received no reply to the same, present petition was filed.

This Court vide its order dated 29.11.2017 issued notice of the petition to the respondent. The office report indicates that the respondent has been duly served with the notice. The petitioner has also filed its affidavit of service indicating that it has served the respondent through Regd. A.D.

In spite of pass-over, none appears for the respondent.

As there is no denial of the existence of the arbitration agreement and invocation thereof by the petitioner, I see no impediment for appointing a Sole Arbitrator for adjudication of the disputes that have arisen under the above agreement.

I hereby appoint Justice K.S.P.Radhakrishnan (Retd.) 87, Anand Lok, Second Floor, New Delhi-110049, Mob.No.9560013636 as a Sole Arbitrator. The arbitration shall be conducted under the aegis of Delhi International Arbitration Centre (DIAC) and the procedure and the fee shall be governed by the rules of the DIAC.

The petition is allowed in the above terms.

Dasti.

NAVIN CHAWLA, J

DECEMBER 20, 2017/vp